

**In The Matter Of:**  
*Aaron Petitt, et al. v.*  
*City of Cleveland*

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*Jeff Follmer*  
*January 17, 2019*

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*Fincun-Mancini, Inc.*  
*1801 E. Ninth Street*  
*Suite 1720*  
*Cleveland, Ohio 44114*  
*(216) 696-2272*

Aaron Petitt, et al. v.  
City of Cleveland

Jeff Follmer  
January 17, 2019

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1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT  
3                   EASTERN DIVISION  
4                   - - -  
5                   Aaron Petitt, et al,                   )  
6                   Plaintiffs,                   )  
7                   vs.                   )                   Case No: 1:18-CV-01678  
8                   City of Cleveland,                   )  
9                   Defendant.                   )  
10                   - - -  
11                   Deposition of Jeff Follmer, a plaintiff  
12                   herein, called by the defendant for  
13                   cross-examination pursuant to the Federal Rules of  
14                   Civil Procedure, taken before Constance Versagi,  
15                   Notary Public in and for the State of Ohio, at Burke  
16                   Lakefront Airport, 1501 Marginal Road, Cleveland,  
17                   Ohio, on Thursday, January 17, 2019, commencing at  
18                   1:15 p.m.  
19                   - - -  
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22  
23  
24  
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1   APPEARANCES:  
2   On behalf of the Plaintiffs:  
3       Jared Klebanow, Esq.  
4       Klebanow Law LLC  
5       701 City Club Building  
6       850 Euclid Avenue  
7       Cleveland, Ohio 44114  
8       216-621-8320  
9       Jklebanow@klebanowlaw.com  
10  
11   On behalf of the Defendant:  
12       William M. Menzalora, Esq.  
13       Michael Pike, Esq.  
14       City of Cleveland  
15       Law Department  
16       601 Lakeside Avenue, Room 106  
17       Cleveland, Ohio 44114  
18       216-664-4285  
19       - - -  
20  
21  
22  
23  
24  
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1                   INDEX  
2   WITNESS:                   CROSS  
3   Jeff Follmer  
4       By Mr. Menzalora                   4  
5                   - - -  
6                   E X H I B I T S  
7   Defendant's:                   Marked  
8       H - CBA                   15  
9       I - grievance trail                   17  
10       J - CPPA Constitution/Bylaws                   45  
11                   - - -  
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1                   JEFF FOLLMER  
2   of lawful age, being first duly sworn, as  
3   hereinafter certified, was examined and testified  
4   as follows:  
5                   CROSS-EXAMINATION  
6   By Mr. Menzalora:  
7   Q   Good afternoon, Jeff.  
8   A   Hello.  
9   Q   You've had your deposition taken before,  
10   correct?  
11   A   Couple times, yes.  
12   Q   You've testified in hundreds of arbitrations  
13   probably?  
14   A   Correct.  
15   Q   We're here, we have a court reporter  
16   obviously, so do your best not to give me  
17   uh-huh or um-hum. Say yes or no to questions,  
18   as opposed to um-hum, or uh-uh, or shaking  
19   your head and everything. I'll remind you  
20   because people frequently do that, even  
21   notwithstanding instructions. I don't think  
22   we will be too long today.  
23       Can you give us for the record your  
24   full name and spell your last name?  
25   A   Jeff Follmer, F-O-L-L-M-E-R, Badge 654.

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1 Q You are currently a detective with the City of  
2 Cleveland, Division of Police, correct?  
3 A Correct.  
4 Q But your Civil Service rank is that of Patrol  
5 Officer; is that correct?  
6 A Correct.  
7 Q How long have you been with the City?  
8 A 27 years in March.  
9 Q What academy class does that put you in?  
10 A 106, 1992.  
11 Q I know it was a long time ago.  
12 A March of '92.  
13 Q You are currently also the President of the  
14 Cleveland Police Patrolmen's Association,  
15 correct?  
16 A Correct.  
17 Q Your current term as President is from  
18 January 1, 2018 through December 31, 2020; is  
19 that correct?  
20 A Correct.  
21 Q This is your second tenure as CPPA President?  
22 A It is.  
23 Q I'm not going to go back that far. After Bob  
24 Beck retired from the City of Cleveland and  
25 stepped down as President of the Cleveland

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1 Police Patrolmen's Association, from then to  
2 the present am I accurate in saying the  
3 presidents were Steven Loomis, then you, then  
4 Steven Loomis, and now you again, correct?  
5 A Correct.  
6 Q Steve Loomis' first tour of duty as President  
7 of the CPPA would have been January 1, '09  
8 through December 31, 2011, correct?  
9 A Correct.  
10 Q You were his First Vice President, or you were  
11 the First Vice President of the CPPA?  
12 A Correct, on his second term.  
13 Q His second term, or his first term?  
14 A No, his second term.  
15 Q So, under the Collective Bargaining Agreement  
16 between the City and the CPPA, three patrol  
17 officers are designated on full-time release  
18 to the CPPA hall, correct?  
19 A Correct.  
20 Q Is it three or is it up to three?  
21 A Three.  
22 Q So, during Steve Loomis' first tenure as CPPA  
23 President from '09 through '11, it would have  
24 been Steve and two other patrol officers on  
25 full-time release designated to the CPPA hall,

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1 correct?  
2 A That's correct.  
3 Q You ran against him. You were CPPA President  
4 from that puts it January 1, 2012 through  
5 December 31, 2014; is that correct?  
6 A Correct.  
7 Q Who was your First Vice President your first  
8 time as CPPA President?  
9 A Steve Kinan, K-I-N-A-S.  
10 Q Then you had one other officer on full-time  
11 release designated to the CPPA, correct?  
12 A Correct.  
13 Q You and Steve ran against each other, then  
14 Steve prevailed, so Steve's second tenure as  
15 CPPA President was from January 1, 2015  
16 through December 31, 2017, correct?  
17 A That's correct.  
18 Q His First Vice President who was designated to  
19 the CPPA hall was William Gonzalez?  
20 A Correct.  
21 Q Then there was another officer on full time  
22 designation from the Division of Police to the  
23 CPPA hall, correct?  
24 A Correct.  
25 Q You and Steve ran against each other, that

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1 resulted in your current term as CPPA  
2 President?  
3 A Correct.  
4 Q Then, David Medina, M-E-D-I-N-A, is your  
5 current First Vice President?  
6 A Yes.  
7 Q Who is the other current officer designated to  
8 the CPPA on full time matters, for CPPA  
9 matters?  
10 A Eric Flint, F-L-I-N-T.  
11 Q Is he Second Vice President, or is he  
12 Treasurer, I always forget?  
13 A Treasurer.  
14 Q You don't have to have certain officers within  
15 CPPA designated. CPPA gets to choose whomever  
16 they want to designate?  
17 A That's correct.  
18 Q Fair to characterize the Division of Police as  
19 a paramilitary organization, correct?  
20 MR. KLEBANOW: Objection. Go ahead.  
21 A Correct.  
22 Q It's not a military organization?  
23 A No, correct.  
24 Q So, at the top of the food chain in the  
25 Division of Police currently is Chief of

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1 Police Calvin Williams, correct?  
2 A Yes.  
3 Q The rank down from Chief of Police is that of  
4 Deputy Chief of Police, correct?  
5 A Yes.  
6 Q Currently there are four Deputy Chiefs of  
7 Police?  
8 A Yes.  
9 Q Going down the rest of the hierarchy from  
10 Chief to the bottom it goes Chief, Deputy  
11 Chief, Commander, Captain, Lieutenant,  
12 Sergeant and then Patrol Officer; is that  
13 correct?  
14 A Yes.  
15 Q We also have -- I would equate him as  
16 equivalent to the Commander level, we also  
17 have somebody called Traffic Commissioner,  
18 correct?  
19 A Yes.  
20 Q Most of the promoted, not all, most of the  
21 promoted police officers in the Division of  
22 Police are represented by the Fraternal Order  
23 of Police Lodge 8, correct?  
24 A Correct.  
25 Q Your union, the CPPA, represents the rank of

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1 patrol officer, correct?  
2 A Correct.  
3 Q Now, looking at what has been marked  
4 previously for identification as Defendant's  
5 Exhibit A, can you take a quick minute to look  
6 at it since I understand you were not here for  
7 Officer Pettitt's deposition; is that correct?  
8 A That is correct.  
9 Q Is that a copy of the Complaint for which we  
10 are here for your deposition today?  
11 A It is.  
12 Q You can take a look through the Complaint. If  
13 you go to page -- try to speed things along.  
14 There are three counts in this Complaint, am I  
15 correct? Or at least three things that have  
16 been characterized as Count 1, Count 2, and  
17 Count 3? Take your time.  
18 A Yes, I just got to Count 3, yes.  
19 Q CPPA pertains only to Count 3. Counts 1 and 2  
20 are on behalf of the other plaintiff, Patrol  
21 Officer Aaron Pettitt; is that correct?  
22 A Correct.  
23 Q So is the CPPA in this case -- Counts 1 and 2,  
24 like I said, you weren't here for Officer  
25 Pettitt's deposition, and neither was I, and

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1 Counts 1 and 2 up make three claims.  
2 One, a procedural due process claim.  
3 One a substantive due process claim. Those  
4 are Count 1.  
5 Count 2 is the First Amendment freedom  
6 of speech violation claim. Do you see those  
7 in the Complaint?  
8 A I do.  
9 Q So what is, in a general sense, explain to me,  
10 I see for Count 3 it says procedural -- I'll  
11 read it into the record. It says, procedural  
12 and substantive due process and claims under  
13 the 14th Amendment to the Constitution of the  
14 United States and First Amendment claims under  
15 the Constitution of the United States on  
16 behalf of plaintiff, CPPA; did I read that  
17 correctly?  
18 A You did.  
19 Q That is on page 16 of the Complaint, which has  
20 been marked for identification as Defendant's  
21 Exhibit A, correct?  
22 A Correct.  
23 Q So, what First Amendment violations of the  
24 CPPA do you allege have been violated by the  
25 City of Cleveland?

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1 A It is the Union's position that the City went  
2 outside the scope of the search warrant from  
3 Sean Gorman, into Pettitt's personal text  
4 messaging, where he used words, through a  
5 private conversation, through his text  
6 messaging.  
7 Q How does that violate the CPPA's First  
8 Amendment rights?  
9 MR. KLEBANOW: Objection. Go ahead.  
10 A The CPPA's?  
11 Q Yes.  
12 A It's my job to make sure that Constitutional  
13 laws and contractual issues are all protected.  
14 We protect everybody's rights, our members'  
15 rights.  
16 Q So if I understand you correctly, the CPPA is  
17 not claiming that their own First Amendment  
18 rights were violated. They are a separate  
19 party plaintiff on this case in an attempt to  
20 assert Patrol Officer Aaron Pettitt's First  
21 Amendment violations?  
22 A A member of our bargaining unit's rights were  
23 violated.  
24 Q That being Aaron Pettitt, correct?  
25 A Yes.

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1 Q So once again, so it's clear for the record,  
2 you are not claiming that the CPPA's First  
3 Amendment rights were violated; is that  
4 correct? You're claiming that Aaron Petitt's  
5 First Amendment rights were violated?  
6 A I characterize him as a member of the CPPA, so  
7 in worrying about other members, what happens  
8 in the future, I would categorize it as a  
9 CPPA, affecting other members and Officer  
10 Petitt.  
11 Q Officer Petitt, and other members, once again  
12 I'm going to circle back to are you claiming  
13 that any CPPA First Amendment rights were  
14 violated by Defendant City of Cleveland, or is  
15 your role as plaintiff to bring First  
16 Amendment claims on behalf of Aaron Petitt and  
17 anybody else that may be similarly situated  
18 down the road?  
19 A I would agree with that, that my  
20 responsibility is to watch for the  
21 Constitutional Amendment rights of Aaron  
22 Petitt and other members.  
23 Q So is it fair then to say you're not claiming  
24 that the CPPA's own First Amendment rights  
25 were violated by Defendant City of Cleveland?

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1 A I think we're going back and forth on this.  
2 Aaron Petitt is part of the CPPA.  
3 Q Correct.  
4 A To answer your question, I'm looking at him as  
5 a member, so I am looking at it as far as the  
6 CPPA it was violated.  
7 Q I understand. So let's talk about the other  
8 two claims. The procedural and substantive  
9 due process. Let's talk about the procedural  
10 due process.  
11 How are you claiming, if you are, that  
12 the CPPA's procedural due process rights were  
13 violated by Defendant City of Cleveland?  
14 MR. KLEBANOW: Objection. Go ahead.  
15 A It's our position that his texts should not  
16 have made it into a discipline, administrative  
17 disciplinary hearing, or go into a  
18 disciplinary hearing.  
19 Q So, are you claiming that the -- once again,  
20 the CPPA's procedural, 14th Amendment  
21 procedural due process rights were violated,  
22 or are you claiming just that Aaron Petitt's  
23 procedural due process rights were violated?  
24 A As a Union, when I fight for a right for one  
25 person, I'm doing it for other members through

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1 the CPPA if it should arise again. So, kind  
2 of answering it the same way, Petitt is a  
3 member of our Union. So I have to protect his  
4 rights, to protect other officers' rights.  
5 Q I get that. The City and the CPPA are parties  
6 to a Collective Bargaining Agreement, correct?  
7 A That's correct.  
8 Q Those generally have a shelf life of three  
9 years?  
10 A Correct.  
11 Q You generally go from April 1st of one year,  
12 to March 31st of three years later, correct?  
13 A That's correct.  
14 Q The current one is dated April 1, 2016 through  
15 March 31, 2019, correct?  
16 A Correct.  
17 (Defendant's Exhibit H marked for  
18 identification.)  
19 Q I'm going to hand you what I'm marking for  
20 identification purpose as Defendant's  
21 Exhibit H, and ask if you can identify it?  
22 A It's the Collective Bargaining Agreement  
23 between the City of Cleveland and the  
24 Cleveland Police Patrolmen's Association.  
25 Q Take a second to flip through that and let me

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1 know if that is a true and accurate copy of  
2 the current Collective Bargaining Agreement  
3 between the CPPA and the City of Cleveland.  
4 Take your time.  
5 A Yes, it appears to be all here.  
6 Q So, we can turn to Article 1. This is the  
7 recognition clause. This states whom the CPPA  
8 represents for Collective Bargaining Agreement  
9 purposes; is that correct?  
10 A Correct.  
11 Q This Collective Bargaining Agreement,  
12 Defendant's Exhibit H, has a grievance  
13 arbitration process, correct?  
14 A It does.  
15 Q Are you claiming that any of -- also has a  
16 provision in the management rights article,  
17 Article 4, which indicates that discipline  
18 should be imposed for just cause; is that  
19 correct?  
20 A Correct.  
21 Q Are you claiming that any -- I'm trying to get  
22 an understanding of how you are claiming the  
23 City violated Aaron Petitt's procedural due  
24 process rights.  
25 The CPPA currently has a grievance

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1 pending regarding the six day suspension which  
2 the City imposed upon Aaron Petitt on May 3,  
3 2017.  
4 MR. KLEBANOW: '18.  
5 MR. MENZALORA: Mike, can you grab  
6 his copy real quick, so I have my dates  
7 correct. Hold on.  
8 (Defendant's Exhibit I marked for  
9 identification.)  
10 Q I'll hand you what I'm marking for  
11 identification purposes as Defendant's  
12 Exhibit I. Maybe this will speed things  
13 along.  
14 Is this a true and accurate copy of the  
15 grievance the CPPA filed on Aaron Petitt's  
16 behalf regarding the discipline that he  
17 received from the City of Cleveland, six day  
18 suspension on or about May 10, 2018?  
19 A Correct.  
20 Q This challenges the six day suspension that he  
21 got, correct?  
22 A It does.  
23 Q This challenges the entire suspension,  
24 meaning -- are you familiar that Aaron Petitt  
25 was found guilty of three specifications?

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1 A I am, yes.  
2 Q The first specification is the one that is  
3 essentially the subject of your First  
4 Amendment claim, and Petitt's First Amendment  
5 claim?  
6 A I don't have the specifications in front of  
7 me, but if you are telling me that is Spec 1,  
8 I will not disagree with you.  
9 Q I'll hand you what has been marked for  
10 identification purposes during Officer  
11 Petitt's deposition as Defendant's Exhibit B.  
12 If you can take a look.  
13 MR. PIKE: Mine is marked  
14 though.  
15 MR. KLEBANOW: Are you looking for  
16 the charge letter?  
17 MR. MENZALORA: Yeah, the charge  
18 letter.  
19 MR. KLEBANOW: I've got it.  
20 MR. MENZALORA: Exhibit B and C, give  
21 them to Jeff, please.  
22 MR. KLEBANOW: There is C. Here is  
23 B.  
24 By Mr. Menzalora:  
25 Q Okay, Jeff, do you have in front of you what

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1 was previously marked for identification  
2 purposes as Defendant's Exhibits B and C?  
3 A I do.  
4 Q B has the three specifications which resulted  
5 in the disposition letter by Chief of Police  
6 Calvin Williams, which is reflected in  
7 Defendant's Exhibit C; is that correct?  
8 A Correct.  
9 Q C is the letter which actually imposed the six  
10 day suspension?  
11 A Correct.  
12 Q He was found guilty of all three of the  
13 specifications which are referenced in  
14 Defendant's Exhibit B, correct?  
15 A Correct.  
16 Q The first specification, once again, to close  
17 this loop, is the one that is the basis of the  
18 CPPA and Officer Petitt's allegation that his  
19 First Amendment rights were violated, correct?  
20 A Correct.  
21 Q So for purposes of this lawsuit, the CPPA is  
22 not contesting the validity of the finding of  
23 guilt for Specification 2 and Specification 3?  
24 A Can you say it again?  
25 Q For purposes of this lawsuit, the CPPA is not

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1 contesting the validity of the finding of  
2 guilt by the City of Cleveland for  
3 Specification 2 and 3. The only specification  
4 at issue in this lawsuit is Specification 1?  
5 A It is.  
6 Q What was marked for identification purposes as  
7 Defendant's Exhibit I, that is challenging the  
8 entire disposition letter that was marked for  
9 identification purposes as Defendant's  
10 Exhibit C?  
11 A Correct.  
12 Q Not to go through in great detail for the  
13 record but once the CPPA files a grievance,  
14 the grievance procedure that is referenced in  
15 Defendant's Exhibit H comes into play and the  
16 grievance procedure is Article 22; is that  
17 correct?  
18 A Correct.  
19 Q So there is a grievance trail. You file a  
20 grievance and it goes through various steps,  
21 2, 3, 4, with the last step being arbitration,  
22 correct?  
23 A Correct.  
24 Q We are currently at the arbitration level for  
25 purposes of the Collective Bargaining



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1 Agreement marked for identification purposes  
2 as Defendant's Exhibit H, correct?  
3 A Correct.  
4 Q The arbitration is currently on stay, pending  
5 the resolution of this lawsuit; is that  
6 correct?  
7 MR. KLEBANOW: If you know.  
8 A I don't know that.  
9 MR. MENZALORA: Off the record.  
10 (Discussion had off the record.)  
11 BY Mr. Menzalora:  
12 Q Jeff, so back to my last question. The  
13 grievance that has been marked for  
14 identification purposes as Defendant's  
15 Exhibit I has reach the arbitration level and  
16 currently the CPPA and the City have agreed to  
17 put the arbitration in abeyance, pending the  
18 resolution of this lawsuit; is that correct?  
19 A Correct.  
20 Q So, is the CPPA contending that any -- Officer  
21 Petitt or the CPPA's procedural due process  
22 rights contained within the grievance  
23 procedure have been violated? Or is it just  
24 the complaint is about the discipline that was  
25 issued, the basis of the discipline that was

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1 issued to Officer Petitt by the City of  
2 Cleveland back on May 10, 2018?  
3 MR. KLEBANOW: Objection. Go ahead  
4 though.  
5 A It would be the discipline.  
6 Q For First Amendment purposes then again -- so  
7 the entire basis of the CPPA's procedural due  
8 process is that Officer Petitt's procedural  
9 due process rights were violated by issuing  
10 discipline based upon text messages that were  
11 contained on his phone?  
12 MR. KLEBANOW: Objection. Go ahead.  
13 Q Is that correct?  
14 A Correct.  
15 Q Is that his -- I honestly don't know sitting  
16 here, is that his personal cell phone, or his  
17 City issued cell phone?  
18 A Personal.  
19 Q Regarding the -- I suspect your answers will  
20 be the same -- regarding the 14th Amendment  
21 substantive due process claim, how are you  
22 claiming that the CPPA's substantive due  
23 process rights have been violated?  
24 MR. KLEBANOW: Objection. Go ahead.  
25 A It would be the same answer. Through the

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1 discipline process, through going into the  
2 phone on a criminal investigation where it  
3 went outside the scope to Officer Petitt's  
4 private phone. Private text message, I'm  
5 sorry.  
6 Q So the grievance process, like I said, the  
7 last step in the grievance procedure between  
8 the City of Cleveland and the CPPA which is  
9 referenced in the document marked for  
10 identification purposes as Defendant's  
11 Exhibit H, the last step is arbitration,  
12 correct?  
13 A Correct.  
14 Q Go through an arbitration. I'll say it's  
15 similar to a bench trial. We sit in a  
16 conference room, before a court reporter, both  
17 sides get to put on, similar to a disciplinary  
18 hearing, both sides get to put on evidence,  
19 witnesses, whatever they want to support their  
20 case. Then an arbitrator makes a written  
21 opinion, sometimes after the parties submit  
22 their post arbitration hearing briefs, is that  
23 a fair explanation of the process?  
24 A Yes, it is.  
25 Q So, in this case, I honestly don't know if

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1 we've been assigned an arbitrator yet, or if  
2 we are still waiting for an arbitrator to be  
3 assigned. Once an arbitrator is assigned, we  
4 have an arbitration hearing, an arbitrator can  
5 do a number of things with the CPPA's  
6 grievance.  
7 They can say the City had just cause  
8 for just Specification 1, but not  
9 Specifications 2 and 3. The arbitrator can  
10 say the City had just cause to impose  
11 discipline for Specification 2, but not  
12 Specifications 1 and 3. The arbitrator can  
13 hold that the City had just cause for imposing  
14 discipline for Specification 3, but not 1 and  
15 2, or some combination of those  
16 specifications. An arbitrator could exonerate  
17 Petitt for all three specifications, or the  
18 arbitrator can find Petitt guilty of all three  
19 specifications; is that an accurate statement?  
20 A Correct.  
21 Q If an arbitrator exonerates Petitt for all  
22 three Specifications, he or she may award  
23 Petitt back pay for the six day suspension he  
24 has already served; is that correct?  
25 A Correct.

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1 Q That is accurate for the record that Officer  
2 Petitt has already served his six day  
3 suspension, correct?  
4 A Correct.  
5 Q An arbitrator could also award whatever other  
6 benefits that he or she may deem Officer  
7 Petitt entitled to under the Collective  
8 Bargaining Agreement, which is marked for  
9 identification purposes as Defendant's  
10 Exhibit H, correct?  
11 A Correct.  
12 Q So what damages is the CPPA claiming that an  
13 arbitrator could not award Officer Petitt in  
14 grievance arbitration decision that is at  
15 issue in the current lawsuit?  
16 MR. KLEBANOW: Objection. Go ahead,  
17 if you know.  
18 A What damages I feel that is outside of an  
19 arbitrator?  
20 Q Correct.  
21 A What the City has done -- actually -- what the  
22 City has done, targeted a criminal  
23 investigation. In that criminal investigation  
24 went outside of the criminal investigation  
25 with a search warrant unable to be challenged

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1 in court because it is stating  
2 administratively to go into somebody's private  
3 texts, conversations, while they are going  
4 outside the scope of that original  
5 investigation.  
6 Q Did the criminal investigation involve Officer  
7 Petitt?  
8 A It did not.  
9 Q Who did it involve?  
10 A Sean Gorman.  
11 Q Is that Sean with S-E-A-N, or S-H-A-W-N, or  
12 something else?  
13 A It's S-E-A-N and Gorman is G-O-R-M-A-N.  
14 Q But you don't dispute that an arbitrator has,  
15 whatever Arbitrator is assigned to rule on  
16 CPPA Grievance 24-18 marked for identification  
17 purposes as Defendant's Exhibit I, has  
18 complete authority to give Officer Petitt back  
19 the entirety of his six day suspension and  
20 whatever other benefits may be at issue under  
21 the Collective Bargaining Agreement between  
22 the City and the CPPA; is that correct?  
23 A I agree with the six days. I'm not sure what  
24 you are saying when you say benefits.  
25 Q Let me ask you a question. For purposes of

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1 the grievance, let's look at Defendant's  
2 Exhibit I. Is the CPPA asking for any  
3 benefits other than the return of pay for  
4 Officer Petitt's six day suspension?  
5 A It's about pay, correct.  
6 Q Just the six day suspension?  
7 A Correct.  
8 Q What communication have you had with Officer  
9 Petitt, outside of the presence of -- outside  
10 of the presence of legal counsel regarding  
11 this lawsuit?  
12 MR. KLEBANOW: Just to be clear too,  
13 that is any attorneys representing you, not  
14 just Avery or I. If there were other  
15 attorneys present representing you, Bill,  
16 correct me if I'm wrong --  
17 MR. MENZALORA: No, you are correct.  
18 MR. KLEBANOW: Nothing about those  
19 conversations, okay?  
20 Q What conversations have you had with Officer  
21 Petitt regarding his lawsuit outside of --  
22 MR. KLEBANOW: No lawyers.  
23 Q -- either Jared or Avery, or any of the CPPA's  
24 what I'll call usual attorneys?  
25 A Really none. It's my job. I wasn't at his

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1 disciplinary hearing.  
2 Q Was it one of the other CPPA -- was it one of  
3 the other two CPPA officers who are full time  
4 release from the Division of Police work that  
5 was at Petitt's disciplinary hearing then?  
6 A Correct. It was Officer Medina. I believe  
7 there was conversation of prepping for his  
8 disciplinary hearing. I don't recall what  
9 those conversations were, but it would be  
10 mostly over the -- if there was any to little  
11 conversation, it would be over the  
12 specifications going forward towards the  
13 discipline.  
14 Q Would that have been with you and Petitt or  
15 that would have been with Medina and Petitt?  
16 A We have a lot of discipline, so we always  
17 bring people in before they to go their  
18 hearings. I might have been present. It  
19 would have been Medina for sure. Joe Delguyd  
20 our attorney for sure.  
21 Q I want communications outside, when no  
22 attorney was present. Let me rephrase the  
23 question.  
24 Have you had any conversations with  
25 Plaintiff Aaron Petitt regarding any aspect of



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1 this lawsuit outside the presence of either  
2 Avery Friedman, Jared, or any of the CPPA's  
3 usual attorneys?  
4 A No.  
5 Q Has Officer Medina had any conversations with  
6 Officer Petitt regarding this lawsuit outside  
7 of the presence of any of the CPPA's normal  
8 legal counsel, or Jared, or Avery?  
9 MR. KLEBANOW: If you know.  
10 A No.  
11 Q Putting aside the First Amendment issue --  
12 well, let me ask you a series of questions.  
13 Putting aside the First Amendment  
14 issue, are you of the opinion that Officer  
15 Petitt is guilty of Specification 1 in the  
16 charge letter that is marked for  
17 identification purposes as Defendant's  
18 Exhibit B?  
19 MR. KLEBANOW: Objection. Go ahead.  
20 Q I ask you to put aside any First Amendment  
21 issues.  
22 A Right. I have no idea what haji meant. I got  
23 educated a little bit through this  
24 process. Truthfully I don't know if that's  
25 offensive to an Arabic male or not.

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1 Q Are you familiar with the circumstances in  
2 which the term was used when he was -- had  
3 interaction attempting to arrest, however you  
4 want to characterize it, the Arab American  
5 male on April 27, 2017?  
6 A I am.  
7 Q You believe on behalf of the CPPA that Officer  
8 Petitt's use of the term was offensive?  
9 MR. KLEBANOW: Objection. Go ahead.  
10 A I believe it was offensive?  
11 Q Yes.  
12 A I said I didn't know.  
13 Q Sitting here today, do you have an opinion one  
14 way or the other?  
15 A I do not.  
16 Q So, sitting here today, you cannot offer an  
17 opinion whether or not you think Officer  
18 Petitt is guilty of Specification 1 marked for  
19 identification purposes as Defendant's  
20 Exhibit B?  
21 A I don't know if the word haji is disparaging.  
22 That would actually come down to an  
23 arbitrator. I don't know enough about this.  
24 I don't know enough about the Arab culture, if  
25 haji is a negative word to them.

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1 Q Circling back, one brief thing. How would you  
2 -- let's go back to the beginning. How would  
3 you characterize, during every Collective  
4 Bargaining Agreement or I guess they don't  
5 necessarily line up because the Collective  
6 Bargaining Agreement doesn't run on the same  
7 three year cycle that the CPPA officers are  
8 on, correct?  
9 A Correct.  
10 Q It's off by about three, four months, correct?  
11 A Correct.  
12 Q So, the three officers that are designate for  
13 assignment to the CPPA hall are designated to  
14 do CPPA work essentially, correct?  
15 A Correct.  
16 Q You are not out fighting crimes, writing  
17 traffic tickets, or you as a detective are not  
18 out investigating crimes. I don't know Medina  
19 or Flint, what departments, districts, or  
20 units they come from, you are not fighting  
21 crime when you are CPPA officers, correct?  
22 A Correct.  
23 Q You are largely administering the labor  
24 contract that is the Collective Bargaining  
25 Agreement between the City of Cleveland and

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1 the CPPA, correct?  
2 A Correct.  
3 Q How would you characterize your other  
4 responsibilities on behalf of the CPPA, other  
5 than administering the labor contract?  
6 A We have a lot of responsibilities.  
7 Q Okay.  
8 A You want me to go through all the  
9 responsibilities we take care of?  
10 Q Right. You reference -- let's look at Count  
11 3. It talks about your charter. Let's look  
12 at paragraph 107 on page 17 of Defendant's  
13 Exhibit A.  
14 So is the basis of the CPPA being a  
15 party plaintiff to this case is its charter;  
16 is that correct?  
17 A Correct.  
18 Q It's not the Collective Bargaining Agreement,  
19 correct, or is it both?  
20 A Both.  
21 Q So you are through this lawsuit trying to  
22 advance the purposes of the Collective  
23 Bargaining Agreement with the City of  
24 Cleveland and the CPPA, and you are also  
25 trying to advance the objectives of the CPPA's

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1 charter; is that correct?

2 A Correct.

3 Q So what you do mean for Count 3 of Defendant's

4 Exhibit A, the Complaint, starts with

5 paragraph 100, goes through paragraph 128; is

6 that correct?

7 A Yes.

8 Q Looking at paragraph -- most of the paragraphs

9 speak for themselves. When you say in

10 paragraph 103 CPPA exists for the purposes of

11 providing mutual aid and protection, and for

12 the education and general wherefore of the

13 police officer members, is that a charter

14 based statement, or a Collective Bargaining

15 Agreement based statement?

16 MR. KLEBANOW: Objection. Go ahead.

17 A I would say it could fall in both.

18 Q Skipping to paragraph 107. What do you, we

19 talked about due process claims being made by

20 the CPPA. What do you mean by equal

21 protection?

22 MR. KLEBANOW: Objection. Go ahead.

23 Q How are you claiming either the CPPA's equal

24 protection rights have been violated, or

25 Officer Petitt's equal protection rights have

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1 been violated?

2 A Through the conversation picked up through the

3 text messaging, is that what you are referring

4 to? That's how I'm looking at it, that the

5 City went outside of its scope.

6 Q Are you claiming that there is anybody

7 similarly situated to Petitt who did not get

8 disciplined for sending a similar, same or

9 similar text message as Officer Petitt?

10 A Could you explain that?

11 Q There is a legal difference between an equal

12 protection claim and a due process claim. You

13 claim an equal protection claim, which usually

14 means that you are claiming that somebody

15 similarly situated to Petitt didn't get

16 disciplined.

17 What I'm trying to figure out is, are

18 you actually claiming that somebody similarly

19 situated to Officer Petitt did not get

20 disciplined, or is this case really about the

21 two due process violations we talked about and

22 the First Amendment violation that we talked

23 about?

24 A To protect other police officers. I don't

25 know if there is any -- there has been no

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1 other discipline of text messaging that I know

2 of right now.

3 Q So you are not aware of anybody that is

4 similarly situated to Officer Petitt who was

5 not disciplined by the City of Cleveland, is

6 that an accurate statement?

7 A That is correct. That is correct. I'd have

8 to do some kind of public record request

9 through Internal Affairs to see on their

10 investigations if there is anything like that.

11 Q Paragraph 108, what do you mean by Plaintiff

12 CPPA also has its purpose under its charter to

13 represent its members in matters of policy,

14 what do you mean by that?

15 A That we are obligated as a bargaining unit to

16 uphold the Collective Bargaining legal laws

17 and Constitutional rights.

18 Q Anything else?

19 A No, not off the top of my head.

20 Q Let's jump to paragraph 126. You say

21 Plaintiff CPPA has been deprived of the

22 ability to protect, defend, and educate

23 relative to you list a whole list, fair

24 notice, warning, or hearing.

25 To protect and defend Officer Petitt in

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1 this case, you would be able to do it through

2 the grievance process in the Collective

3 Bargaining Agreement between the City of

4 Cleveland and Officer Petitt; isn't that

5 correct?

6 MR. KLEBANOW: Objection. Go ahead.

7 A Say the question one more time.

8 Q Wouldn't you be able to protect and defend

9 Officer Petitt through the grievance process

10 as contained in the Collective Bargaining

11 Agreement that has been marked for

12 identification purposes as Defendant's

13 Exhibit H?

14 A I would disagree.

15 Q How so?

16 A I disagree that the issue of the text messages

17 through an arbitrator would not -- through an

18 arbitrator hearing would not touch on these

19 issues. I think we would be touching more on

20 his six day suspension.

21 Q Are you telling me an arbitrator cannot rule

22 on issues of violations of the United States

23 Constitution?

24 A Truthfully I'm not sure. I never had one go

25 outside of that, to that scope there.

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1 Q I'm curious about the next paragraph, the last  
2 one here, it says as a result of the acts and  
3 conduct of the Defendant City of Cleveland,  
4 Plaintiff CPPA's members will suffer  
5 discipline, loss of reputation, loss of wages,  
6 hedonic damages and a whole host of other  
7 damages.  
8 So, then are you bringing this  
9 complaint then on behalf of all CPPA members,  
10 or just on behalf of Officer Petitt?  
11 A This could affect all CPPA members.  
12 Q It could. But has the incidents that are the  
13 basis of this lawsuit affected CPPA members?  
14 MR. KLEBANOW: Objection. Go ahead.  
15 A It could. That's the best answer. If there  
16 is another investigation where --  
17 Q Could means going forward. I'm asking you  
18 sitting here today, or at the time you filed  
19 the Complaint, have the actions that resulted  
20 in the discipline to Officer Aaron Petitt  
21 affected any other CPPA bargaining unit  
22 members other than Aaron Petitt?  
23 A Yes.  
24 Q Who?  
25 A John Kraynik. Then there is Steve Fedorko.

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1 I'm not sure of the timing of his to this one.  
2 So I don't know which one came first or  
3 second.  
4 Q Who is John Kraynik and if you could spell  
5 that for Connie?  
6 A K-R-A-  
7 Q Y-N-I-K?  
8 A Yeah.  
9 Q Who is he?  
10 A He also received discipline through this Sean  
11 Gorman investigation.  
12 Q What kind of discipline did Kraynik receive?  
13 A I believe it was a letter of re-instruction.  
14 I can't remember if he had other charges  
15 though.  
16 Q It was a letter of re-instruction for what?  
17 What was he alleged to have done wrong?  
18 A The same disparaging remarks, same as the  
19 Specification for 1.  
20 Q Was he having a conversation with Petitt, or  
21 was it a separate incident?  
22 A His was a conversation with Sean Gorman. So  
23 both Petitt and Kraynik came from Sean  
24 Gorman's search warrant for his phone and text  
25 messages.

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1 Q Were they -- I don't know. Were they having  
2 separate conversations with Gorman, or were  
3 they a group?  
4 A Separate.  
5 Q Gorman was having a text message conversation  
6 with Kraynik on one day and he was having text  
7 message conversations with Plaintiff Aaron  
8 Petitt on a different day; is that correct?  
9 A Correct.  
10 Q Who was the other person that you -- who was  
11 the second person?  
12 A Steve Fedorko.  
13 Q Who is Steve? Can you spell that for Connie?  
14 A F-A-R-D-A-R-K-O.  
15 Q F-E or F-A?  
16 A F-A.  
17 MR. KLEBANOW: I think it might be  
18 F-E-D-O-R-K-A, I think.  
19 Q Is it Steve S-T-E-V-E, or S-T-E-P-H-E-N?  
20 A S-T-E-V-E.  
21 MR. KLEBANOW: V-E-N, yeah.  
22 Q So what is -- I'm not familiar with that name,  
23 doesn't ring a bell, what did he do?  
24 A It will be. His was an accusation where he  
25 got hurt fighting with somebody. Through a

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1 search warrant of his phone, and text messages  
2 with other people, the City brought charges  
3 against Steve for things that were found in  
4 his phone.  
5 Q What was the first part, you said he got  
6 injured or --  
7 A Fighting with a -- he broke a toe while  
8 fighting with a suspect.  
9 Q How does that have relationship for him being  
10 disciplined for text messages on his phone?  
11 Can you close that gap for me. I'm not  
12 understanding that.  
13 A Somehow there was an accusation that maybe he  
14 didn't hurt his toe by the suspect kicking  
15 him. That maybe he hurt his toe by somebody  
16 throwing an object away from the bad guy,  
17 hitting his toe.  
18 Q Also there was at least at some point that he  
19 broke his toe because the suspect kicked his  
20 foot?  
21 A Correct.  
22 Q Go ahead.  
23 A So there is a question about how he broke his  
24 toe I guess. I never seen the search warrant.  
25 I'm only assuming somewhere in the search

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1 warrant he was observed texting, which enabled  
2 the Internal Affairs to get a search warrant  
3 for his phone, which led to other charges not  
4 relating to the incident.  
5 Q Was it a criminal search warrant or an  
6 administrative search warrant? Was it  
7 Internal Affairs, looking for criminal  
8 charges, or something else?  
9 A They get -- start over. They can't get an  
10 administrative search warrant. I know they  
11 would like to think they can. So it was -- to  
12 answer your question it was a criminal --  
13 Q I don't do criminal law so --  
14 A It was a criminal search warrant originally.  
15 Q Gotcha. He got disciplined for text messages  
16 that were found on his phone too?  
17 A Correct.  
18 Q Were they text messages to another CPPA  
19 officer, or were they to a civilian?  
20 A If I remember correctly, officers and  
21 civilians.  
22 Q Text message of the type in this case,  
23 offensive to an Arab American, or other  
24 language?  
25 MR. KLEBANOW: Objection. Go ahead

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1 if you know.  
2 A No, there was no offensive language issues.  
3 Equipment, there is like 15 Specifications.  
4 Q Were there any -- was he, or was he not,  
5 disciplined for any offensive text messages  
6 regarding Arab Americans?  
7 A No.  
8 Q Was he disciplined for any offensive messages  
9 involving any other nationality or race?  
10 A No.  
11 Q Was it something else?  
12 A Correct.  
13 Q So what was -- is there any First Amendment  
14 issue involving Officer Fedorko? In this case  
15 we're here for First and 14th Amendment --  
16 MR. KLEBANOW: Objection. Go ahead,  
17 you can answer if you know.  
18 A No, I don't recall there was, but I could be  
19 incorrect on that.  
20 Q He wasn't disciplined, getting back to my last  
21 question, maybe you answered it, Officer  
22 Fedorko wasn't disciplined for any -- the  
23 offensive nature of any text messages; is that  
24 a fair statement, he was not disciplined?  
25 A Offensive nature?

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1 Q You mentioned text messages. My question is,  
2 was he -- you said it was like 15  
3 Specifications, was he disciplined at all  
4 for --  
5 A He was. No, nothing offensive toward another  
6 individual.  
7 Q Was it disparaging remarks about the City or  
8 the Division of Police?  
9 A Correct. Policies and procedures that were --  
10 Q Were his messages -- it wasn't about -- his  
11 messages were disparaging about either  
12 individuals in the Division of Police, or  
13 policies, procedures, that type of stuff?  
14 A Correct, and use of force. Obviously the  
15 question with the toe.  
16 Q An interesting use of force case.  
17 A It was.  
18 Q I don't know if we have that case. I don't  
19 think I have much more.  
20 MR. KLEBANOW: Want to take a break  
21 for a minute?  
22 MR. MENZALORA: Yeah.  
23 (Recess taken.)  
24 By Mr. Menzalora:  
25 Q Jeff, I'm going to hand you what I marked for

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1 identification purposes as Defendant's  
2 Exhibit J. Ask if you could take a look at  
3 those and identify them for the record.  
4 Let me ask you a question a better way.  
5 Is this a true and accurate copy of the  
6 Constitution and Bylaws of the CPPA that were  
7 in effect from May 21, 2014 -- they were  
8 approved on either May 21, 2014 or June 18,  
9 2014?  
10 A Correct.  
11 Q Have there been any changes to this document  
12 from whenever they were approved in 2014 until  
13 the present?  
14 A I do not believe so, unless something was done  
15 during Loomis' presidency during those three  
16 years.  
17 Q So, is the basis for your belief that the CPPA  
18 is a proper party plaintiff to this lawsuit  
19 contained in Article 1 of the charter?  
20 Because we talked about you thought you were  
21 able to bring the lawsuit on behalf of CPPA  
22 bargaining unit members both under the  
23 Collective Bargaining Agreement between the  
24 CPPA and the City, and the CPPA's charter, do  
25 you remember your testimony on that?

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1 A I do.  
2 (Defendant's Exhibit J marked for  
3 identification.)  
4 Q Is the basis for which you think the CPPA has  
5 the right to be a party plaintiff to the  
6 current lawsuit, is that contained in Article  
7 1 of this document that has been marked for  
8 identification purposes as Defendant's  
9 Exhibit J?  
10 MR. KLEBANOW: Objection. Go ahead,  
11 if you know.  
12 A Article 1?  
13 Q Yes. Actually Article --  
14 A 2?  
15 Q -- 2.  
16 MR. KLEBANOW: I was wondering why  
17 he was asking about 1.  
18 Q Article 2. Is the basis for which you believe  
19 the CPPA is a proper party plaintiff in  
20 relationship to its charter, is that contained  
21 in Article 2 of the document that has been  
22 marked for identification purposes as  
23 Defendant's Exhibit J?  
24 MR. KLEBANOW: Objection. Go ahead,  
25 if you know.

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1 A I would agree.  
2 Q Then looking at what has was previously marked  
3 for identification purposes as Defendant's  
4 Exhibit E, can you take a look at this. Can  
5 you identify this for the record? A text  
6 message exchange between Plaintiff Petitt and  
7 Patrol Officer Sean Gorman that resulted in --  
8 A Yes.  
9 Q Resulted in Specification 1 in the charge  
10 letter that was marked for identification  
11 purposes as Defendant's Exhibit --  
12 A Correct.  
13 Q Let me ask the question. Defendant's Exhibit  
14 B?  
15 A Correct.  
16 Q Both Gorman and Petitt were on duty, correct,  
17 at the time of this text message exchange  
18 referenced on Defendant's Exhibit E?  
19 A I'm not sure about Gorman.  
20 Q Petitt was on duty?  
21 A Correct.  
22 Q So Gorman you don't know if he was on duty?  
23 A Correct.  
24 Q Officer Kraynik, when we were talking about  
25 him a few minutes ago, he got a

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1 non-disciplinary letter of re-instruction,  
2 correct?  
3 A Correct.  
4 Q I think you also said he received  
5 non-disciplinary, he was sent to sensitivity  
6 training; is that correct?  
7 A I don't recall. It could have been though.  
8 Q That would have also been non-disciplinary if  
9 the Division of Police had sent him to  
10 sensitivity training or some other kind of  
11 training, or retraining, that would have been  
12 non-disciplinary in nature too?  
13 A Technically, yes. I still call it discipline.  
14 Q Under the Division of Police's General Police  
15 Order on discipline, letters of re-instruction  
16 are non-disciplinary, correct?  
17 A Correct.  
18 Q Sending, at least under the GPO, sending the  
19 people to corrective training, or remedial  
20 training, however you want to call it, or  
21 training like that, would be non-disciplinary  
22 in nature, as least as far as the GPO is  
23 concerned?  
24 A As far as the GPO, correct.  
25 Q You didn't grieve Officer Kraynik's letter of

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1 re-instruction or his training, did you, you  
2 being the CPPA?  
3 A Correct, we did not.  
4 Q Did you grieve Sean Gorman's discipline that  
5 we were talking about earlier, the CPPA, did  
6 they grieve it?  
7 A I don't think Sean got disciplined, unless you  
8 are going to tell me different.  
9 Q I don't know.  
10 A I think he retired before anything.  
11 Q Discipline, or a predisciplinary hearing could  
12 be held?  
13 A If there were any charges that would have came  
14 up. I'm not sure about that.  
15 Q Looking at the document that has been marked  
16 for identification purposes Defendant's  
17 Exhibit E.  
18 MR. KLEBANOW: The text messages.  
19 Q The text messages, Petitt's text message at  
20 1:58 a.m. says -- he must be working third  
21 shift, correct? At least on the date of this  
22 incident?  
23 A I think he works like a four platoon.  
24 Q Overnight for purposes of the record?  
25 A Correct. Yes.



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<p>1 Q You and I know what platoons are. For 2 purposes of the record, it's an overnight 3 shift? 4 A Exactly. After the midnight hour. 5 Q So, Pettitt's text message never, at 1:58 a.m., 6 never a bother to tune up some haji, haha, do 7 you have an opinion whether or not that is 8 offensive or in-offensive, or proper or 9 improper? 10 MR. KLEBANOW: Objection. Go ahead. 11 A I don't have an opinion because I'm not 12 educated on the word haji, as far as how it 13 pertains to the Arab culture. 14 Q How about the rest of the text message? It 15 says tune up. You understand what the word 16 tune up means? 17 A I do. 18 Q That means violence, correct? 19 MR. KLEBANOW: Objection. You can 20 answer. 21 Q It mean impose violence on somebody else? 22 A That's a little far-fetched. I don't think 23 police officers in this day and age can tune 24 up anybody, because everything is on video. I 25 don't think that --</p>	<p>1 improper? 2 A Correct. 3 Q You've never stated to any media outlet your 4 opinion on whether or not this text message is 5 either offensive or in-offensive or proper or 6 improper? 7 A To any media outlet? 8 Q Correct. 9 A I'm not sure. I don't recall what I've said 10 to the media. 11 Q You don't recall saying to somebody that you 12 didn't condone this text message sent by 13 Officer Pettitt at 1:58 a.m.? 14 A I'm not sure if I was referring to Pettitt or 15 not on that one, unless you are going to tell 16 me I said his name specifically. 17 Q I'm just asking you sitting here today do you 18 remember? 19 A I do not. 20 MR. MENZALORA: Off the record. 21 (Recess taken.) 22 By Mr. Menzalora: 23 Q Back to Defendant's <u>Exhibit E</u>. Do you 24 understand how somebody could be offended by 25 the text messages sent by Officer Pettitt at</p>
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<p>1 Q What do you understand the word tune up to 2 mean? 3 A As I'm reading this coming from a police 4 officer, I wouldn't say it was something 5 violent. 6 Q You don't think he intended any violence with 7 the use of the word tune up? 8 MR. KLEBANOW: Objection. 9 A He could have, but he knows he can't. A 10 police officer on duty with a video camera. 11 The word tune up was something he said that he 12 knew he couldn't follow, or couldn't do an act 13 of violence on somebody down there. 14 Q Putting that aside. Doesn't the general use, 15 general meaning of the word tune up mean to 16 beat up? 17 MR. KLEBANOW: Objection. Go ahead. 18 A One could look at it that way. 19 Q So you are not offering any opinion whether or 20 not this text message as a whole, from 21 beginning to end, is offensive or 22 in-offensive? 23 A Correct. 24 Q You are not offering an opinion whether the 25 text message from beginning to end is</p>	<p>1 1:58 a.m. on Defendant's <u>Exhibit E</u>? 2 A Do I understand, is that what you said? 3 Q Yes. Do you understand how somebody would 4 find that offensive? 5 A Somebody could find it offensive I guess. I'm 6 not really on haji, what haji means, if that 7 is offensive. I guess to answer your question 8 I really don't know what haji is referring to. 9 From my little bit of education, it's a leader 10 in the Arab community, if I have that right. 11 Q When you first saw this text message, what did 12 you think of it? 13 A I had no idea why he was going up on charges, 14 that's what I thought. 15 Q For this text message? 16 A Correct. Plus, because it was between two 17 people in a private conversation, a private 18 text conversation. 19 Q Put that aside. Let's assume somebody who's 20 in the Arab American community, are you saying 21 you don't understand how what is contained in 22 this text message at 1:58 a.m. in Defendant's 23 <u>Exhibit E</u> would be offensive to them? 24 MR. KLEBANOW: Objection. Go ahead. 25 A Correct. I would have to get more -- actually</p>

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1 have to probably talk to somebody in the  
2 Arabic community to find out if that is  
3 offensive.  
4 Q You don't think this text message in  
5 Defendant's Exhibit E at 1:58 a.m. by Officer  
6 Petitt is offensive?  
7 A I don't have an opinion on it just because I'm  
8 not educated on that word haji.  
9 Q So Jeff, let's look at this thing from top to  
10 bottom, Defendant's Exhibit E. At the top of  
11 the exchange there is a text message from  
12 Gorman to Petitt, correct?  
13 A Correct.  
14 Q Stop down to Hustler means the Hustler strip  
15 club in the Flats in the City of Cleveland,  
16 correct?  
17 A Correct.  
18 Q Stop down to Hustler, apparently there is some  
19 middle eastern types giving people a hard  
20 time. We are in route, correct?  
21 A Correct.  
22 Q Did I read that correctly?  
23 A Correct.  
24 Q That's at 1:32 a.m.?  
25 A Correct.

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1 Q They means Gorman and his partner?  
2 MR. KLEBANOW: Objection. Go ahead.  
3 A I know it's Gorman so I would stand corrected  
4 now I recall that he was working.  
5 Q Once again, what I'm talking about the we,  
6 does we mean Gorman and his partner or was  
7 Gorman in a single response car and we mean  
8 Gorman and some other patrol cars, if you  
9 know?  
10 A I don't know.  
11 Q It says, packing up, be there soon. What is  
12 your understanding of what Officer Petitt  
13 meant by packing up? Was he at the scene of  
14 another police incident he was responding to?  
15 A I don't know.  
16 Q You do know that Officer Petitt was on duty at  
17 the time of the text message reflected on  
18 Exhibit E, correct?  
19 A Correct.  
20 Q Gorman responds take your time. Responds  
21 again, 20 minutes later, sorry for bothering  
22 you, sir. Petitt and Gorman are both patrol  
23 officers; is that correct?  
24 A Correct.  
25 Q Given the text message exchange from top to

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1 bottom, where Gorman says there is some middle  
2 eastern types, and at the bottom, never a  
3 bother to tune up some haji, haha. You are  
4 stating you don't understand how somebody in  
5 the Arab American community would find that  
6 offensive?  
7 A Say it one more time. I'm stating what?  
8 Q You're stating you don't understand how the  
9 text message, never a bother to tune up some  
10 haji, haha, would be offensive to somebody in  
11 the Arab American community?  
12 A I'm not sure if it would be.  
13 Q So you don't know one way or the other?  
14 A Correct.  
15 Q LOL response by Gorman is short for laugh out  
16 loud?  
17 A Correct.  
18 MR. MENZALORA: I have nothing  
19 further. You want to advise him of his rights?  
20 MR. KLEBANOW: We will read.  
21 (Deposition concluded at 2:37 p.m.)  
22 (Signature not waived.)  
23 ---  
24  
25

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SIGNATURE PAGE

1  
2  
3 In Re: Aaron Petitt, et al. vs. City of Cleveland  
4 Case Number: 1:18-CV-01678  
5 Deponent: Jeff Follmer  
6 Date: 1-17-19  
7  
8 To the Reporter:  
9 I have read the entire transcript of my  
10 Deposition taken in the captioned matter or the same  
11 has been read to me. I request that the following  
12 changes be entered upon the record for the reasons  
13 indicated.  
14 I have signed my name to the Errata Sheet and the  
15 appropriate Certificate and authorize you to attach  
16 both to the original transcript.  
17  
18  
19  
20 \_\_\_\_\_  
21 Jeff Follmer  
22 Subscribed and sworn to before me this  
23 \_\_\_\_ day of \_\_\_\_\_, 2019.  
24  
25  
26 \_\_\_\_\_  
27 Notary Public  
28 My commission expires: \_\_\_\_\_.

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1 I have read the foregoing transcript from page 1  
2 through page 59 and note the following corrections:  
3 PAGE-LINE REQUESTED CHANGE REASON FOR CHANGE  
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25 Jeff Follmer \_\_\_\_\_ Date \_\_\_\_\_

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1 State of Ohio, )  
2 County of Cuyahoga. ) SS: CERTIFICATE  
3 I, Constance Versagi, Court Reporter and  
4 Notary Public in and for the State of Ohio, duly  
5 commissioned and qualified, do hereby certify that  
6 the within named witness, Jeff Follmer,  
7 was by me first duly sworn to testify the truth, the  
8 whole truth, and nothing but the truth in the cause  
9 aforesaid; that the testimony then given by him was  
10 by me reduced to stenotypy/computer in the presence  
11 of said witness, afterward transcribed, and that the  
12 foregoing is a true and correct transcript of the  
13 testimony so given by him as aforesaid.  
14 I do further certify that this deposition was  
15 taken at the time and place in the foregoing caption  
16 specified, and was completed without adjournment.  
17 I do further certify that I am not a relative,  
18 counsel, or attorney of either party, or otherwise  
19 Interested in the event of this action.  
20 IN WITNESS WHEREOF, I have hereunto set my  
21 hand and affixed my seal of office at Cleveland,  
22 Ohio, on this 18th day of January, 2019.  
23  
24 Constance Versagi, Court Reporter and  
25 Notary Public in and for the State of Ohio.  
My Commission expires January 14, 2023.

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